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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,492	01/04/2001	G. Stephen LeGraw	V144.101.102	2903
25281	7590	10/04/2005	EXAMINER	
DICKE, BILLIG & CZAJA, P.L.L.C. FIFTH STREET TOWERS 100 SOUTH FIFTH STREET, SUITE 2250 MINNEAPOLIS, MN 55402			HARBECK, TIMOTHY M	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/754,492

Applicant(s)

LEGRAW, G. STEPHEN

Examiner

Timothy M. Harbeck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/04/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coueignoux (US Pat No 6,092,197) in view of "Rules of Engagement," April 11, 1999, Sunday Times, London (UK), pg 14 (hereinafter Sunday).

**Re Claim 1:** Coueignoux discloses claims.

A business method for trading information, comprising the steps of:

- Collecting information from a user at a first location (4), having a confidential data portion and an exchange data portion (5; col.7, lines 27-49);
- Transmitting only the exchange data portion to a central location (8; col.7, lines 27-49);
- Defining an exchange data set at the central location (16; col.7, line 27-col.9, line 10);
- Updating the exchange data set using the exchange data portion (method steps 17-35 of fig.4);
- Determining an output data set from the exchange data set, wherein the output data set is accessible by one or more users (7).

Coueignoux does not explicitly disclose wherein the information is in regards is private company information and wherein said private company information relates to a private company in a commercial industry, and the output data set includes statistical averages for the commercial industry.

Sunday discloses a method for valuation of private companies in which statistical averages with regards to the price to earnings ratio are taken across the relevant sector of the private business (See Page 2). In this manner the value of a private company can be estimated based upon comparisons to similar companies to which more data is available.

It would have been obvious to someone skilled in the ordinary art at the time of invention to include the teachings of Sunday to the disclosure of Coueignoux so that a user of the system would have statistical information of the relevant sector of business to use as estimates for a private business where this information may not be available. This information, combined with that gathered directly from the other party would give a more accurate estimate of the market value of the private company.

**Re Claim 2:** The method of claim 1, wherein the step of transmitting only the exchange data portion to a central location includes the step of transmitting only the exchange data portion to a central location via a network (8., col.7, lines 27-49).

**Re Claim 3:** The method of claim 2, wherein the network includes an Internet communication link (col.5, line 1-co1.6, line 14).

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**Re Claim 4:** The method of claim 1, further comprising the steps of defining one or more groups; and determining one or more groups associated with the collected information (20)

**Re Claim 5:** The method of claim 4, further comprising the step of attaching the determined groups to the exchange data portion (co1.8, line 5-co1.9, line 10)

**Re Claim 6:** The method of claim 1, further comprising the step of defining the user as a qualified user (co1.8, line 5-co1.9, line 10)

**Re Claim 7:** The method of claim 6, further comprising the step of defining the exchange data set as a qualified user exchange data set (see DEP 14 and various rules).

**Re Claim 8:** The method of claim 1, further comprising the step of transmitting the output data set from the central location to the first location via an Internet communication link (13, 12)

**Re Claim 9:** The method of claim 8, further comprising storing the output data set at the first location (1' or 6).

**Re Claim 10:** The method of claim 1, further comprising storing the output data set at the central location (8, 9)

**Re Claim 11:** The method of claim 1, further comprising the step of storing the collected information at the first location (1' or 6).

**Re Claim 12:** The method of claim 1, further comprising the step of storing the confidential data portion at the first location (6).

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**Re Claim 13:** The method of claim 1, wherein the step of determining the output data set further comprises the steps of: defining a statistical model; generating a statistical data set using the exchange data set and the statistical model; and storing the statistical data set as the output data set (8).

**Re Claim 14:** The method of claim 13, further comprising the step of receiving a second exchange data portion from a second user; and updating the exchange data set using the second exchange 'data portion (repeat method step of 17-35 of fig.4);

**Re Claim 15:** The method of claim 1, wherein the step of collecting information from a user further includes the steps of defining a graphical user interface including a webpage; and collecting information from the user via the webpage (col.7, line 27-col.8, line 46).

**Re Claim 16:** The method of claim 15, further comprising the steps of: accessing the central controller via the webpage using a login routine, wherein the login routine determines whether a user is allowed to access the central controller ("As will be further described, private facts cannot be accessed by a system element other than the DEP 14, and can be discovered by the DEP 14 during a single user-interaction session or during multiple user-interaction sessions.")

**Re Claim 17:** The method of claim 14, further comprising the step of transmitting the output data set to the user at the completion of the login routine (it is inherent in a login routine; see fig.1, interface between step 5 to 7)

**Re Claim 18:** The method of claim 1, further comprising the step of generating a graph from the output data set (38).

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**Re Claim 19:** The method of claim 1, wherein the step of collecting information from a user includes the step of collecting benchmark information (38, 30, 31, 33, 34, 35).

**Re Claim 20:** The method of claim 19, wherein the benchmarking information is asset information (38).

**Re Claim 21:** The method of claim 20, wherein the asset information includes public business valuation information (38).

**Re Claim 22:** The method of claim 20, wherein the asset information includes private business valuation information (35).

**Re Claim 23:** The method of claim 20, wherein the asset data information includes portfolio information.

**Re Claim 24:** The method of claim 20, wherein the asset information includes capital structure information (38).

**Re Claim 25:** The method of claim 20, wherein the benchmarking information is performance information (38).

Claims 26-58 are similarly rejected as in claims 1-25:

**Re Claim 26:** A network business method for providing commercial statistical data via a network, comprising the steps of:

- collecting commercial data information via a webpage from a user;
- generating a commercial data record from the commercial data information, including a confidential sub record and an exchange sub record;
- defining a commercial statistical analysis system having an exchange data set;

- transmitting only the exchange sub record via a network communication link to the commercial statistical analysis system;
- Updating the exchange data set using the exchange sub record; and
- Generating a commercial statistical, data set using the commercial statistical analysis system, wherein the commercial statistical data set is accessible by the user. (16; co1.7, line 27-co1.9, line 10).

Couegnoux does not explicitly disclose wherein the statistical data set is for the industry and that said data set includes statistical averages for the industry. Sunday discloses a method for valuation of private companies in which statistical averages with regards to the price to earnings ratio are taken across the relevant sector of the private business (see page 2). In this manner the value of a private company can be estimated based upon comparisons to similar companies to which more data is available.

It would have been obvious to someone skilled in the ordinary art at the time of invention to include the teachings of Sunday to the disclosure of Couegnoux so that a user of the system would have statistical information of the relevant sector of business to use as estimates for a private business where this information may not be available. This information, combined with that gathered directly from the other party would give a more accurate estimate of the market value of the private company.

**Re Claim 27:** The method of claim 26, further comprising the step of transmitting the commercial statistical data set from the commercial statistical analysis system to the user via the network communication link.



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**Re Claim 28:** The method of claim 27, further comprising storing the commercial statistical data set.

**Re Claim 29:** The method of claim 28, further comprising storing the commercial statistical data set at the commercial statistical analysis system.

**Re Claim 30:** The method of claim 26, further comprising the step of storing the collected information at the location of the user.

**Re Claim 31:** The method of claim 26, further comprising the step of storing the confidential sub record at the location of the user.

**Re Claim 32:** The method of claim 26, wherein the step of generating the commercial statistical data set further comprises the steps of: defining a statistical model; and generating a commercial statistical data set using the exchange data set and the statistical model.

**Re Claim 33:** The method of claim 32, further comprising the step of receiving a second exchange sub record from a second user; and updating the exchange data set using the second exchange sub record.

**Re Claim 34:** The method of claim 26, further comprising the steps of: accessing the commercial statistical analysis system via the web page using a login routine, wherein the login routine determines whether a user is allowed to access the commercial statistical analysis system.

**Re Claim 35:** The method of claim 34, further comprising the step of transmitting the commercial statistical data set to the user at the completion of the login routine.

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**Re Claim 36:** The method of claim 26, further comprising the step of generating a graph from the commercial statistical data set.

**Re Claim 37:** The method of claim 26, wherein the step of collecting information from a user includes the step of collecting asset information.

**Re Claim 38:** The method of claim 37, wherein the asset information includes public business valuation and other statistical information.

**Re Claim 39:** The method of claim 37, wherein the asset information includes private business valuation and other statistical information.

**Re Claim 40:** The method of claim 26, further comprising the step of determining whether the user is a qualified user.

**Re Claim 41:** The method of claim 40, further comprising the step of defining a qualified user exchange data set, wherein the qualified user exchange data set is allowed to be accessed only by the qualified user.

**Re Claim 42:** The method of claim 41, further comprising the step of defining the exchange data set to include the qualified user exchange data set as a subset of the exchange data set.

**Re Claim 43:** The method of claim 26, comprising the step of defining the network communication link to include an Internet communication link.

**Re Claim 44:** A system for trading commercial information via a network, the system comprising: a commercial information exchange system including an exchange system controller and an exchange data storage system; wherein the commercial information exchange system is configured to receive an exchange sub record from a user via the

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network, updates the exchange data set using the exchange sub record, and generates a commercial statistical data set, wherein the commercial statistical data set is accessible by one or more users who provide exchange sub records to the commercial information exchange system. (Col. 2, line 28-col.4, line 7).

Coueignoux does not explicitly disclose wherein the exchange sub record includes commercial information relating to a private company in an industry, and the statistical data set includes statistical averages for the industry. Sunday discloses a method for valuation of private companies in which statistical averages with regards to the price to earnings ratio are taken across the relevant sector of the private business (See page 2). In this manner the value of a private company can be estimated based upon comparisons to similar companies to which more data is available.

It would have been obvious to someone skilled in the ordinary art at the time of invention to include the teachings of Sunday to the disclosure of Coueignoux so that a user of the system would have statistical information of the relevant sector of business to use as estimates for a private business where this information may not be available. This information, combined with that gathered directly from the other party would give a more accurate estimate of the market value of the private company.

**Re Claim 45:** The system of claim 44, wherein the user is a qualified user, and the commercial statistical data set is accessible only by one or more qualified users.

**Re Claim 46:** The system of claim 44, further comprising:

A first user interface located at the user; wherein the first user interface is in communication with the commercial information exchange system via the network, for

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transmitting the exchange record from the first user interface to the commercial information exchange system.

**Re Claim 47:** The system of claim 44, wherein the network includes the Internet.

**Re Claim 48:** The system of claim 44, wherein the exchange system controller further includes a web server. (See Internet and servers)

**Re Claim 49:** The system of claim 44, wherein the exchange system controller further includes a query manager for managing queries between the user and the commercial information exchange system.

**Re Claim 50:** The system of claim 44, wherein the exchange system controller includes a statistical model, wherein the commercial statistical data set is generated using the exchange data set and the statistical model.

**Re Claim 51:** A computer-readable medium having computer-executable instructions for performing a method for providing commercial statistical data via a network comprising:

- Collecting commercial data information via a webpage from a user; generating a commercial data record from the commercial data information, including a confidential sub record and an exchange sub record;
- Defining a commercial statistical analysis system having an exchange data set;
- Transmitting only the exchange sub record via a network communication link to the commercial statistical analysis system;

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- Updating the exchange data set using the exchange sub record; and generating a commercial statistical data set using the commercial statistical analysis system, wherein the commercial statistical data set is accessible by the user.

Couegnoux does not explicitly disclose wherein the commercial data information being associated with a private company in an industry and the statistical data set includes statistical averages for the industry. Sunday discloses a method for valuation of private companies in which statistical averages with regards to the price to earnings ratio are taken across the relevant sector of the private business (See page 2). In this manner the value of a private company can be estimated based upon comparisons to similar companies to which more data is available.

It would have been obvious to someone skilled in the ordinary art at the time of invention to include the teachings of Sunday to the disclosure of Couegnoux so that a user of the system would have statistical information of the relevant sector of business to use as estimates for a private business where this information may not be available. This information, combined with that gathered directly from the other party would give a more accurate estimate of the market value of the private company.

**Re Claim 52:** The method of claim 51, further comprising transmitting the commercial statistical data set from the commercial statistical analysis system to the user via 10 the network communication link.

**Re Claim 53:** The method of claim 51, wherein the step of generating the commercial statistical data set further comprises: defining a statistical model; and generating a commercial statistical data set using the exchange data set and a statistical model.

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**Re Claim 54:** The method of claim 51, further comprising the step of receiving a second exchange sub record from a second user; and updating the exchange data set using the second exchange sub record.

**Re Claim 55:** The method of claim 51, further comprising the step of: accessing the commercial statistical analysis system via the webpage using a login routine, wherein the login routine determines whether a user is allowed to access the commercial statistical analysis system.

**Re Claim 56:** The method of claim 55, further comprising the step of transmitting the commercial statistical data set to the user at the completion of the login routine.

**Re Claim 57:** The method of claim 51, wherein the step of collecting information from a user includes the step of collecting private business valuation information.

**Re Claim 58:** A method for trading private company statistical data comprising:

- Collecting private company data information via a webpage from a user;
- Generating a private company data record from the private company data information, including a confidential sub record and an exchange sub record;
- Defining a statistical analysis system having an exchange data set;
- Transmitting only the exchange sub record to the statistical analysis system;
- Updating the exchange data set using the exchange sub record; and
- Generating a private company statistical data set using the statistical analysis system, wherein the private company statistical data set is accessible by one or more qualified users, wherein a qualified user is defined as a user who provides

exchange sub records to the statistical analysis system. (co1.4, line 64-co1.8, line 47).

Couegnoux does not explicitly disclose wherein the company data information includes business valuation and other statistical data from a user associated with the private company wherein the private company is part of a commercial industry and based upon the updated exchange data set and the at least one statistical model, said statistical data set includes one of average deal statistics, average valuation statistics, average collateral statistics, average operating performance statistics and average operating performance data. Sunday discloses a method for valuation of private companies in which statistical averages with regards to the price to earnings ratio (average valuation statistics, performance data) are taken across the relevant sector of the private business (See page 2). In this manner the value of a private company can be estimated based upon comparisons to similar companies to which more data is available.

It would have been obvious to someone skilled in the ordinary art at the time of invention to include the teachings of Sunday to the disclosure of Couegnoux so that a user of the system would have statistical information of the relevant sector of business to use as estimates for a private business where this information may not be available. This information, combined with that gathered directly from the other party would give a more accurate estimate of the market value of the private company.

**Re Claim 59:** The method of claim 1, further comprising the step of collecting public company commercial information from a published public exchange market. Sunday

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discloses the collection of price to earnings ratios of public companies and it is notoriously well known in the art that this information is readily available from a published public exchange market. These markets are popular sources for this type of information and one would be motivated to get said information from one of these markets because it would be quick and easy.

**Re Claim 60:** The method of Claim 1, wherein the statistical data averages includes one of average deal statistics, average valuation statistics, average collateral statistics, average operating performance statistics and average operating performance data. Sunday discloses a method for valuation of private companies in which statistical averages with regards to the price to earnings ratio (average valuation statistics, performance data) are taken across the relevant sector of the private business (See page 2).

### ***Response to Arguments***

Applicant's arguments filed March 10, 2005 have been fully considered but they are not persuasive. Applicant has argued that Coueignoux does not teach and is not related to a system or method that conversely functions to use gathered information to provide generalized information about an industry as a whole as recited in the amended claims. However the examiner believes that the Coueignoux reference contains all the limitations of the original claims and, in view of the additional reference, contains all the limitations of the newly amended claims. Coueignoux discloses a system and method of collecting information from a user, some of which is to be exchanged with other parties, some of which is to remain private. Applicant does not argue that the



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Coueignoux reference teaches the limitations of the claims as originally presented, and offers amended statements regarding commercial company information and statistical averages for the commercial industry for which the private company is a part.

Examiner has offered prior art that teaches the valuation of private companies using statistical data from the particular sector to which the private company falls under. Examiner believes that this reference, in combination with the original Coueignoux reference teaches all the claimed limitations of the amended claims and has offered motivation in support of these assertions.

Applicant has not expressed any other arguments with respect to the previously rejected dependent claims 2-25, 27-43, 45-50 and 52-57 and therefore our rejected using the same art and rationale as before, falling in line with the new rejections of their respective independent claims. The newly added claims 59 and 60 have also been rejected.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Harbeck whose telephone number is 571-272-8123. The examiner can normally be reached on M-F 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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HYUNG SOUGH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600